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HAROLD
U.S. DISTRICT JUDGE
S. D. N.Y.

MICHAEL A. CARDOZO
Corporation Counsel

THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NY 10007

MARK D. ZUCKERMAN
Senior Counsel
E-mail: mzuckerm@law.nyc.gov
Phone: (212) 442-8248
Fax: (212) 788-9776

January 14, 2008

BY FACSIMILE (212) 805-7901

The Honorable Harold Baer
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: Thomas Lawson v. City of New York, et al., 07 Civ. 11592 (HB)

Your Honor:

I am Senior Counsel in the office of Michael A. Cardozo, Corporation Counsel of the City of New York, representing defendants City of New York and Police Commissioner Raymond Kelly in the above-referenced matter. I write with respect to the above-referenced matter in which plaintiff alleges that his constitutional rights were violated by defendants. Defendants City and Kelly respectfully request an extension of time to answer or otherwise respond to this complaint from January 16, 2008 until March 17, 2008. Plaintiff has consented to this request for an extension of time.

There are several reasons for seeking an enlargement of time in this matter. In accordance with this office's obligations under Rule 11 of the Federal Rules of Civil Procedure, we need time to investigate the allegations of the complaint. Furthermore, it is our understanding that the records of the underlying criminal actions, including police records, may have been sealed pursuant to New York Criminal Procedure Law § 160.50. Therefore, this office is in the process of forwarding to plaintiff for execution and authorizations for the release of sealed arrest and criminal prosecution records so that defendant can access the information, properly assess the case, and respond to this complaint.

Additionally, upon information and belief, the named individual defendant, Police Officer Jose Peralta, has not been served with the summons and complaint in this action. This extension should also allow plaintiff time to serve the individual defendant. Moreover, if timely

served, it may also give this office an opportunity to determine whether the officer is entitled to representation by this office. *See Mercurio v. The City of New York, et al.*, 758 F.2d 862, 864-65 (2d Cir. 1985) (quoting *Williams v. City of New York, et al.*, 64 N.Y.2d 800, 486 N.Y.S.2d 918 (1985) (decision whether to represent individual defendants is made by the Corporation Counsel as set forth in state law)).

No previous request for an extension have been made by defendants City of New York and Kelly. Accordingly, we respectfully request that defendant City of New York and Commissioner Kelly's time to answer or otherwise respond to the complaint be extended to March 17, 2008.

Thank you for your consideration herein.

Respectfully submitted,

Mark D. Zuckerman
Mark D. Zuckerman
Senior Counsel

cc: Michael Hucston, Esq. (Via Facsimile)

*March 10 is approachable to the
Court I presume on consent &
o PTC is now scheduled
for 3/17 that's my only
conference day in March & so
have pushed back your answer
date. It will take place at
3/17/08
suek.*

SO ORDERED:

Harold Baer, Jr.
Harold Baer, Jr., U.S.D.J.

Date: 1/15/08

Endorsement:

March 10 is agreeable to the Court I presume on consent and a PTC is now scheduled for 3/17 that's my only conference day in March and so I have pushed back your answer one week. It will take place at 3:30 on 3/17/08.